IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 5TH JUNE 2007 / 15TH JYAISHTA 1929

WP(C).No. 3659 of 2005(I)

OS.471/2003 of MUNSIFF'S COURT, KODUNGALLUR
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PETITIONER:

SOMALATHA
D/O. KUZHIKANDATHIL RAMACHANDRAN,
THIRUVANCHIKKULAM DESOM, METHALA VILLAGE,
KODUNGALLUR TALUK

BY ADV. SRI.T.H.ABDUL AZEEZ

RESPONDENTS:
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1. SHEREEF, S/O. NJAVELIPARAMBIL
KUNJUMOHAMMED, THIRUVANCHIKKULAM DESOM,
METHALA VILLAGE, KODUNGALLUR TALUK

2. LOVLY
W/O. NJAVELIPARAMBIL SHEREEF, THIRUVANCHIKKULAM
DESOM, METHALA VILLAGE, KODUNGALLUR TALUK.

BY ADV. SRI.S.KRISHNAMOORTHY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.3659/05

APPENDIX

PETITIONER'S EXTS:

Ext.P1 – TRUE COPY OF INJUNCTION APPLICATION I.A.893/03 DT.24.5.03

Ext.P2 – TRUE COPY OF ORDER DT.1.3.2000 IN CRP.156/00 OF THIS COURT.

Ext.P3 – TRUE COPY OF ORDER OF MUNSIFF'S COURT, KODUNGALLUR, IN I.A. 893/03 IN O.S.471/03.

Ext.P4 – TRUE COPY OF JUDGMENT IN CMA.42/03 DT.31.7.04 OF ADDL. SUB COURT, IRINJALAKUDA.

Ext.P5 – TRUE COPY OF RP. FOR REVIEW OF ORDER DT.17.12.03 IN I.A.133/94 BEFORE MUNSIFF'S COURT, KODUNGALLUR.

/TRUE COPY/

PIUS C. KURIAKOSE, J.

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W.P.(C)No.3659 OF 2005

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DATED THIS THE 5TH JUNE, 2007

J U D G M E N T

The learned counsel for the petitioner seeks adjournment by one week. But having gone through Ext.P3 order of the learned Munsiff which has been confirmed by Ext.P4 judgment of the learned Subordinate Judge, I am of the view that there is no scope at all for interfering with those orders in exercise of this Court's visitorial jurisdiction under Article 227 of the Constitution of India. Under those orders, an application filed by the petitioner-plaintiff for injunction restraining the respondents from carrying out certain constructions on the suit property was dismissed. In this Court also, though interim injunction was sought for, this Court permitted continuance of the constructions by the respondents at their risk and subject to the decree to be passed in the suit.

2. Under these circumstances, the Writ Petition will stand disposed of directing the Munsiff, Kodungallur to take up O.S.No.471 of 2003 for trial (after completing all pre-trial steps) by special listing the same and dispose of the suit in accordance with law. The interim

order of this Court that the constructions presently undertaken by the respondents will be subject to the outcome of the suit will continue. No costs.

(PIUS C. KURIAKOSE, JUDGE)

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